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10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

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13 DARREN CHAKER-DELNERO,

14 CASE NO.:

15 Plaintiff,

16 vs.

17 BUTLER & HAILEY, a Texas professional  
18 corporation, S-G OWNER'S ASSOCIATION,  
19 a Texas corporation, PLANNED  
20 COMMUNITY MANAGEMENT, INC., a  
21 Texas Corporation, DOES I-V, inclusive and  
22 ROE Corporations VI-X, inclusive,

23 Defendants.

24 **COMPLAINT &  
25 DEMAND FOR TRIAL BY JURY**

26 **EIGHT PERSON JURY DEMANDED**

27 1. This is a claim for actual, statutory, multiple and exemplary damages  
28 brought by the named plaintiff, DARREN CHAKER-DELNERO (hereinafter referred to  
as "plaintiff" or "Chaker-Delnero"), for defendants' violations of the Fair Debt Collection  
Practices Act (hereinafter referred to as the "FDCPA"), 15 U.S.C. §1692, *et seq.*, and the  
Texas Debt Collection Act, Tex.Fin.Code § 392.001 *et seq.* (hereinafter "TDCA"), which  
expressly prohibits a debt collector from engaging in deceptive, unfair and  
unconscionable debt collection practices.

29 2. Jurisdiction of this Court is invoked under 15 U.S.C. §1692k(d), 28 U.S.C.  
30 §1337, and supplemental jurisdiction exists for the state law claims under 28 U.S.C. §  
31 1367. Venue in this District is proper because Plaintiff resides in Nevada and the  
32 conduct complained of occurred here. Specifically, Defendants reside in Texas and sent  
33 a facsimile transmission into Nevada that violates the FDCPA and the TDCA.

1       3. Chaker-Delnero is a "consumer" as defined in the Act at 15  
2 U.S.C. §1692a(3) and Tex.Fin.Code Ann. § 392.3001(1) who may or may not have been  
3 obligated to pay money to a creditor.

4       4. Defendant, BUTLER & HAILEY (hereinafter referred to as "B&H",  
5 allegedly, is a professional corporation, organized and existing under the laws of the  
6 state of Texas, with its principal place of business at 1616 South Voss Road, Suite 500,  
7 Houston, Texas, 77057.

8       5. Defendant, S-G OWNER'S ASSOCIATION, (hereinafter referred to as "S-G  
9 OA"), allegedly is a corporation incorporated under the laws of Texas or licensed therein.

10      6. Defendant, PLANNED COMMUNITY MANAGEMENT, INC. (hereinafter  
11 referred to as "PCMI"), allegedly is a corporation incorporated under the laws of Texas  
12 or licensed therein.

13      7. Defendants regularly collect or attempt to collect consumer debts owed or  
14 due or asserted to be owed or due another.

15      8. S-G OA is a "debt collector" as defined by Tex.Fin.Code Ann. § 392.001(6).

16      9. PCMI is a "debt collector" as defined by Tex.Fin.Code Ann. § 392.001(6).

17      10. B&H is a "debt collector" as defined by 15 U.S.C. § 1692a(6) and  
18 Tex.Fin.Code Ann. § 392.001(6).

19      11. B&H is a "third-party debt collector" as defined by Tex.Fin.Code Ann.  
20 §392.001(7).

21      12. The alleged debt was incurred by the plaintiff primarily for personal,  
22 family, or household purposes.

23      13. Defendants purported to be involved in collection efforts with regard to  
24 plaintiff's disputed debt to S-G OA within one year before the date of this action.

25      14. Plaintiff is unaware of the true names and legal capacities, whether  
26 individual, corporate, associate, or otherwise, of the Defendants DOES I-V and ROE  
27 Corporations VI-X, sued herein inclusive, and therefore sues Defendants by such  
28 fictitious names.

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1       15. Plaintiff is informed and believes, and thereon alleges, that each of the  
2 Defendants designated herein as DOES I-V and ROE Corporations VI-X, are in some  
3 way legally responsible and liable for the events referred to herein, and proximately  
4 caused the damages alleged herein.

5       16. Plaintiff prays leave to insert said Defendants' true names and legal  
6 capacities when ascertained.

7       17. At all times material hereto, and in doing the acts and omissions alleged  
8 herein, the Defendants and each of them, including DOES I-V and ROE Corporations  
9 VI-X, acted individually and/or through their officers, agents, employees, and co-  
10 conspirators, including the fictitious Defendants named herein, each of whom was  
11 acting within the purpose and scope of that agency, employment and conspiracy, and  
12 said acts and omissions were known to, and authorized and ratified by, each of the other  
13 Defendants.

#### COUNT ONE

14       18. Plaintiff repeats and realleges and incorporates by reference paragraphs  
15 one through seventeen, inclusive, above.

16       19. Defendants' collection efforts mischaracterized the amount of the alleged  
17 past due debt, presented confusing language to Plaintiff which overshadowed the notice  
18 mandated in the FDCPA at 15 U.S.C. §1692g, falsely attempted to collect amounts it was  
19 not entitled to, demanded a fee to respond to Plaintiff's validation dispute and thereafter  
20 refused to validate the alleged debt, and falsely represented that communications  
21 Plaintiff received were from an attorney.

22       20. Defendants' collection efforts continued after receiving Plaintiff's written  
23 communication disputing the debt and asking for validation, while never providing  
24 Plaintiff with validation of the debt.

25       21. After receiving Plaintiff's letter disputing the debt and asking for  
26 validation, Defendants' collection efforts included harassing verbal and written  
27 communications that included, but were not limited to, false threats to throw Plaintiff in

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1 jail if the alleged debt remained unpaid; misrepresentations as to the FDCPA's  
 2 application to the Defendants, rude and coarse language the natural consequences of  
 3 which is to abuse the Plaintiff and threats to contact third parties and neighbors  
 4 regarding the alleged debt.

5 22. Defendants' collection efforts violated 15 U.S.C. §1692d, -e, -f, and/or -g.

6 **COUNT TWO**

7 23. Plaintiff repeats and realleges and incorporates by reference paragraphs  
 8 one through twenty-two, inclusive, above.

9 24. Defendants violated the TDCA by:

- 10 (a) collecting or attempting to collect a charge incidental to the obligation  
     without first demonstrating to the consumer that the charge is expressly  
     authorized by an agreement creating the obligation, in violation of  
     Tex.Fin.Code Ann. §392.303(a)(2);
- 11 (b) accusing falsely or threatening to accuse falsely a person of fraud or any  
     other crime, in violation of Tex.Fin.Code Ann. §392.301(a)(2);
- 12 (c) representing or threatening to represent to any person other than the  
     consumer that a consumer is wilfully refusing to pay a nondisputed  
     consumer debt when the debt is in dispute and the consumer has notified  
     in writing the debt collector of the dispute, in violation of Tex.Fin.Code  
     Ann. §392.301(a)(3);
- 13 (d) threatening that the debtor will be arrested for nonpayment of a consumer  
     debt without proper court proceedings, in violation of Tex.Fin.Code Ann.  
     §392.301(a)(5);
- 14 (e) threatening to file a charge, complaint, or criminal action against a debtor  
     when the debtor has not violated a criminal law, in violation of  
     Tex.Fin.Code Ann. §392.301(a)(6);
- 15 (f) threatening that nonpayment of a consumer debt will result in the seizure,  
     repossession, or sale of the person's property without proper court

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- 1           proceedings, in violation of Tex.Fin.Code Ann. §392.301(a)(7);  
2       (g) threatening to take an action prohibited by law, in violation of  
3           Tex.Fin.Code Ann. §392.301(a)(8);  
4       (h) using profane or obscene language or language intended to abuse  
5           unreasonably the hearer or reader, in violation of Tex.Fin.Code Ann.  
6           §392.302(1);  
7       (i) placing telephone calls without disclosing the name of the individual  
8           making the call and with the intent to annoy, harass, or threaten a person  
9           at the called number, in violation of Tex.Fin.Code Ann. §392.302(2);  
10     (j) collecting or attempting to collect interest or a charge, fee, or expense  
11           incidental to the obligation unless the interest or incidental charge, fee, or  
12           expense is expressly authorized by the agreement creating the obligation  
13           or legally chargeable to the consumer, in violation of Tex.Fin.Code Ann.  
14           §392.303(a)(2);  
15     (k) failing to disclose, that the communication is from a debt collector, if the  
16           communication is a subsequent written or oral communication between  
17           the third-party debt collector and the alleged debtor, in violation of  
18           Tex.Fin.Code Ann. §392.304(a)(5)(B);  
19     (l) using a written communication that fails to indicate clearly the name of the  
20           debt collector and the debt collector's street address or post office box and  
21           telephone number if the written notice refers to a delinquent consumer  
22           debt, in violation of Tex.Fin.Code Ann. §392.304(a)(6);  
23     (m) misrepresenting the character, extent, or amount of a consumer debt, in  
24           violation of Tex.Fin.Code Ann. §392.304(a)(8);  
25     (n) representing that a consumer debt will definitely be increased by the  
26           addition of attorney's fees, investigation fees, service fees, or other charges  
27           if the award of the fees or charges is subject to judicial discretion, in  
28           violation of Tex.Fin.Code Ann. §392.304(a)(13);

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- 1                             (o) using any other false representation or deceptive means to collect a debt or  
 2                             obtain information concerning a consumer, in violation of Tex.Fin.Code  
 3                             Ann. §392.304(a)(19);  
 4                             (p) claiming that a debt is being collected by an attorney when it is not,  
 5                             in violation of Tex.Fin.Code Ann. §392.304(a)(17); and  
 6                             (q) S-G OA used B&H as an independent debt collector at a time when S-G OA  
 7                             had actual knowledge that B&H repeatedly and/or continuously engaged  
 8                             in prohibited acts or practices in violation of Tex.Fin.Code Ann. §392.306.

9                             25. Pursuant to Tex.Fin.Code Ann. § 392.404, the Defendants' violations of  
 10                             the TDCA also constitute a deceptive trade practice under Subchapter E, Chapter 17,  
 11                             Business & Commerce Code ("DTPA"), and is actionable under that subchapter.

12                             26. Under Tex. Bus. & Com. Code Ann. § 17.50(b)(2), the Defendants'  
 13                             violations of the DTPA render them jointly and severally liable to Plaintiff for injunctive  
 14                             relief, and reasonable attorney's fees.

15                             27. The Defendants are guilty of false, misleading, or deceptive acts or  
 16                             practices against the Plaintiff in violation of the prohibitions of Tex. Bus. & Com. Code  
 17                             Ann. § 17.46(b).

18                             28. Defendants actions were knowing or intentional and they are liable to the  
 19                             Plaintiff for punitive, multiple, statutory and actual damages, attorney's fees and costs.

20                             29. Plaintiff is also entitled, pursuant to the TDCA and the Texas DTPA, to  
 21                             injunctive and declaratory relief against the Defendants.

### COUNT THREE

22                             30. Plaintiff repeats and realleges and incorporates by reference paragraphs  
 23                             one through twenty-nine, inclusive, above.

24                             31. The conduct of the Defendants, and each of them, constituted extreme and  
 25                             outrageous conduct. As a direct and proximate result of Defendants' conduct, Plaintiff  
 26                             has suffered intense emotional upset and physical symptoms. As a direct and proximate  
 27                             result of Defendants' conduct, Plaintiff has been damaged in an amount unknown to

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Plaintiff at the present time, but believed to be in excess of \$10,000.00.

2       32. In doing the acts herein alleged, Defendants acted with oppression, fraud  
3 and/or malice, and as a result thereof, Plaintiff is entitled to recover punitive damages.

## **Prayer for Relief**

5 WHEREFORE, Plaintiff respectfully prays, that judgment be entered against the  
6 Defendants for the following:

7 (1) an injunction stopping Defendants from continuing to attempt debt  
8 collection in a manner that is violative of the FDCPA, the TDCA and the Texas DTPA and  
9 also preventing Defendants from foreclosing on Plaintiff's real property.

10 (2) For general and compensatory damages;

13 (4) For a multiple of actual damages pursuant to Tex.Bus.&Com.Code §17.50;

14 (5) For exemplary damages;

15           (6) For reasonable attorney fees for all services performed by counsel in  
16 connection with the prosecution of this claim;

17       (7)     For reimbursement for all costs and expenses incurred in connection with  
18     the prosecution of this claim; and

19 (8) For any and all other relief this Court may deem appropriate.

**20** DATED this 4<sup>th</sup> day of January 2006.

22 || Respectfully submitted by:

*(Signature)*  
25 Craig B. Friedberg, Esq.  
26 3745 Edison Ave.  
27 Las Vegas, Nev. 89121  
28 Attorney for Plaintiff